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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KIMBERLY JO VINES BARRANCO
9500 Greythorne Court
Montgomery, AL 36117

Registered Nurse License No. 588150

RESPONDENT

Case No. 2012-255

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 24, 2011, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-255 against Kimberly Jo Vines Barranco (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about October 3, 2001, the Board of Registered Nursing (Board) issued Registered Nurse License No. 588150 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on November 30, 2004 and has not been renewed.

3. On or about October 24, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-255, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

9500 Greythorne Court
Montgomery, AL 36117.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about November 8, 2011, the Certified and First Class Mail documents were
5 returned, both marked by the U.S. Postal Service, "Not Deliverable as addressed; unable to
6 forward."

7 6. Respondent failed to maintain an updated address with the Board and the Board has
8 made attempts to serve the Respondent at the address on file. Respondent has not made herself
9 available for service, and therefore, has not availed herself of her right to file a notice of defense
10 and appear at a hearing.

11
12 7. Business and Professions Code section 2764 states:

13 The lapsing or suspension of a license by operation of law or by order or decision of
14 the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive
15 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
16 against such license, or to render a decision suspending or revoking such license.

17 8. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
19 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
20 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
21 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

22 9. Respondent failed to file a Notice of Defense within 15 days after service of
23 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
24 No. 2012-255.

25 10. California Government Code section 11520 states, in pertinent part:

26 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
27 agency may take action based upon the respondent's express admissions or upon other evidence
28 and affidavits may be used as evidence without any notice to respondent.

1 11. Pursuant to its authority under Government Code section 11520, the Board after
2 having reviewed the proof of service dated October 24, 2011, signed by Beth Scott and the
3 returned envelopes, finds Respondent is in default. The Board will take action without further
4 hearing and, based on Accusation No. 2012-255 and the documents contained in Default Decision
5 Investigatory Evidence Packet in this matter which includes:

6 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-255,
7 Statement to Respondent, Notice of Defense (two blank copies), Request
8 for Discovery and Discovery Statutes (Government Code sections
9 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
10 receipt or copy of returned mail envelopes;

11 Exhibit 2: License History Certification for Kimberly Jo Vines Barranco, Registered
12 Nurse License No. 588150;

13 Exhibit 3: Affidavit of Kami Pratab;

14 Exhibit 4: Out of State Discipline Records from the Alabama Board of Nursing
15 issued to Kimberly Jo Vines Barranco;

16 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
17 Case No. 2012-255.

18 The Board finds that the charges and allegations in Accusation No. 2012-255 are separately and
19 severally true and correct by clear and convincing evidence.

20 12. Taking official notice of Certification of Board Costs and the Declaration of Costs by
21 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
22 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
23 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
24 \$1,217.50 as of December 8, 2011.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Kimberly Jo Vines Barranco has subjected her following license(s) to discipline:

a. Registered Nurse License No. 588150

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary action by another State Board of Nursing.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 588150, heretofore issued to Respondent Kimberly Jo Vines Barranco, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.

It is so ORDERED JULY 5, 2012



JEANNINE K. GRAVES
President
Board of Registered Nursing
Department of Consumer Affairs

Attachment:

Exhibit A: Accusation No. 2012-255

Exhibit A

Accusation No. 2012-255

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2012-255*

13 **KIMBERLY JO VINES BARRANCO**
14 **9500 Greythorne Court**
15 **Montgomery, AL 36117**
16 **Registered Nurse License No. 588150**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 3, 2001, the Board of Registered Nursing issued Registered
23 Nurse License Number 588150 to Kimberly Jo Vines Barranco (Respondent). The Registered
24 Nurse License expired on November 30, 2004, and has not been renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
2 that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license. Under section 2811,
8 subdivision (b), of the Code, the Board may renew an expired license at any time within eight
9 years after the expiration. After the expiration of such eight-year period the board may require as
10 a condition of reinstatement that the applicant pass such examination as it deems necessary to
11 determine his present fitness to resume the practice of professional nursing.

12 6. California Code of Regulations, title 16, section 1419.3, provides that a licensee may
13 renew a license that has been expired for more than eight years by paying the renewal and penalty
14 fees specified in Section 1417 and providing evidence that he or she holds a current valid active
15 and clear registered nurse license in another state, a United States territory, or Canada, or by
16 passing the Board's current examination for licensure.

17 7. Section 118, subdivision (b), of the Code provides, in pertinent part, that the
18 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
19 action during the period within which the license may be renewed, restored, reissued or
20 reinstated.

21 STATUTORY PROVISIONS

22 8. Section 2761 of the Code states:

23 "The board may take disciplinary action against a certified or licensed nurse or deny an
24 application for a certificate or license for any of the following:

25 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

26 ...

27 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
28 against a health care professional license or certificate by another state or territory of the United

1 States, by any other government agency, or by another California health care professional
2 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
3 action.”

4 COST RECOVERY

5 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 FIRST CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct – Out of State Discipline)
(Bus. & Prof. Code § 2761, subd. (a)(4))

11 10. Respondent has subjected her registered nurse license to disciplinary action under
12 Code section 2761, subdivision (a)(4), in that on or about August 18, 2004, in a disciplinary
13 action before the Alabama Board of Nursing (Alabama Board), Case No. 21784/04-0818975, the
14 Alabama Board entered a Voluntary Disciplinary Alternative Program Agreement (Agreement),
15 requiring Respondent to comply with various terms and conditions in order to maintain continued
16 licensure as a registered nurse in Alabama. The Agreement’s duration was for a period of sixty
17 months and it required Respondent to: (1) submit to the Alabama Board the results of a
18 comprehensive evaluation for chemical dependency and physical and mental illness within 30
19 days of the effective date of the Agreement and abide by any requests and recommendations of
20 the provider; (2) not be employed as a registered nurse during the evaluation process; (3) undergo
21 a subsequent chemical dependency evaluation by the original or other appropriate provider
22 following a relapse or for other cause; (4) participate in a Alabama Board-approved chemical
23 dependency treatment program and cause the director of the program to submit to the Alabama
24 Board documentation of Respondent’s successful completion of the program and arrangements
25 for appropriate follow-up; (5) not be employed as a registered nurse until completion of the initial
26 phase of the treatment program and upon satisfaction of all recommendations from the provider
27 and documentation by said provider of Respondent’s readiness to return to professional
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1 employment and provide safe nursing practice; (6) unless otherwise recommended by the
2 treatment provider and approved by the Alabama Board, within one week of completing the
3 initial phase of the treatment program, enter a chemical dependency aftercare program that meets
4 on a weekly basis; (7) cause the aftercare program to submit to the Alabama Board quarterly
5 documentation of Respondent's attendance, participation, and progress in the program;
6 (8) participate regularly in a Alabama Board-approved counseling program, contingent upon the
7 recommendations of the original treatment provider, and continue with therapy for as long as is
8 recommended by the counselor or therapist; (9) cause the counseling program to submit evidence
9 of Respondent's participation and progress in counseling to the Alabama Board; (10) attend and
10 participate in a minimum of three Twelve-Step meetings per week for the duration of the
11 Agreement and cause the Twelve-Step group facilitator to submit to the Alabama Board
12 documentation of Respondent's entry into the group, attendance, participation, and progress in the
13 program; (11) submit to the Alabama Board written monthly self-reports containing a self-
14 assessment of her status; (12) have only one primary physician during the period of the
15 Agreement who shall be the only physician to prescribe mood altering medications to Respondent
16 and who must have knowledge of her drug abuse; (13) have only one dentist during the period of
17 the Agreement who shall be the only dentist to prescribe mood altering medications to
18 Respondent for a bona fide dental condition and who shall have knowledge of her drug abuse;
19 (14) completely abstain from alcohol use; (15) completely abstain from the personal use or
20 possession of controlled substances, dangerous drugs, mood altering drugs, or any drugs requiring
21 a prescription except as otherwise provided in the Agreement; (16) participate as directed in a
22 program for random biological fluid testing; (17) practice only under the on-site monitoring of a
23 Alabama Board-approved licensed health professional who is in good standing with their
24 professional regulatory body; (18) work only regularly assigned, identified, and predetermined
25 shifts; (19) not be self-employed or contract for services; (20) not work for a nursing registry,
26 traveling nurse agency, nursing float pool, hospice, home health agency, or temporary
27 employment agency without prior written approval from the Alabama Board or its designee;
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(21) not be employed as a supervising nurse; (22) not administer or have access to drugs for a minimum of six months of employment and not until obtaining written permission from the Alabama Board; (23) not work more than eighty hours in a two week period; (24) provide any health care employer or school of nursing with a copy of the Agreement and cause each to acknowledge receipt of the Agreement; (25) not accept or change employment without prior written notification to the Alabama Board; (26) cause her employer to provide quarterly written evaluations to the Alabama Board; (27) be employed in nursing for a minimum period of eighteen months in order to complete the terms of the Agreement; (28) maintain a current license at all times during the period of the Agreement; (29) notify the Alabama Board immediately if arrested by any law enforcement agency or if admitted as patient to any institution in Alabama or elsewhere for treatment regarding the abuse of or dependence on any chemical substance or for treatment for any emotional or psychological disorder; (30) immediately notify the Alabama Board of any change of address or relocation outside of the State of Alabama; (31) appear in person for interviews at the request of the Alabama Board; and (32) obey all laws.

11. The Alabama Board's disciplinary order was based upon its finding of fact that Respondent admitted being chemically dependent and acknowledged her need for treatment. On or about May 17, 2004, Respondent entered an inpatient treatment program at Bradford Health Services in Warrior, Alabama.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Out of State Discipline)

(Bus. & Prof. Code § 2761, subd. (a)(4))

12. Complainant hereby realleges the allegations contained in paragraphs 10 and 11 above, and incorporates them as if fully set forth.

13. Respondent has subjected her registered nurse license to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about November 9, 2004, in a disciplinary action before the Alabama Board, Case No. 2005-0078/04-11091010, the Alabama Board entered a Voluntary Disciplinary Alternative Program Agreement (Alternative Agreement), requiring Respondent to comply with various terms and conditions in order to maintain continued licensure

1 as a registered nurse in Alabama. The terms and conditions of the Alternative Agreement were
2 the same terms and conditions of the August 18, 2004 Agreement, as set forth above in paragraph
3 10.

4 14. The Alabama Board's disciplinary action was based upon the allegations contained in
5 paragraphs 10 and 11 above, as well as its finding of fact that on or about October 12, 2004,
6 Respondent submitted a specimen that was positive for alcohol. Respondent did not have a valid
7 prescription verification for this substance, and the Alabama Board found that Respondent was in
8 violation of the August 18, 2004 Agreement.

9 THIRD CAUSE FOR DISCIPLINE
10 (Unprofessional Conduct – Out of State Discipline)
(Bus. & Prof. Code § 2761, subd. (a)(4))

11 15. Complainant hereby realleges the allegations contained in paragraphs 10 through 14
12 above, and incorporates them as if fully set forth.

13 16. Respondent has subjected her registered nurse license to disciplinary action under
14 Code section 2761, subdivision (a)(4), in that on or about December 29, 2004, in a disciplinary
15 action before the Alabama Board, the Alabama Board entered an Order approving and accepting
16 Respondent's voluntary surrender of her Alabama registered nurse license. Respondent
17 understood that the surrender of her registered nurse license had the same effect as a revocation.
18 She also understood that as a condition for reinstatement, she would be required to demonstrate to
19 the satisfaction of the Alabama Board her capability to safely and competently resume the
20 practice of nursing in accordance with the laws of the State of Alabama.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
23 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 588150, issued to
25 Kimberly Jo Vines Barranco;

2. Ordering Kimberly Barranco to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

October 24, 2011 *Louise R. Bailey*
LOUISE R. BAILEY, M.ED., RN
Executive Officer

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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